

BEFORE THE  
POLLUTION CONTROL HEARINGS BOARD  
STATE OF WASHINGTON

IN THE MATTER OF )  
CASCADE SHIPPING COMPANY )  
(M/S ASIA BRAVERY) )  
Appellant, )  
v. )  
PUGET SOUND AIR POLLUTION )  
CONTROL AGENCY, )  
Respondent. )

PCHB No. 79-116

FINAL FINDINGS OF FACT,  
CONCLUSIONS OF LAW  
AND ORDER

This matter, the appeal from the issuance of a \$250 civil penalty for the alleged violation of Section 9.03 of respondent's Regulation I, came before the Pollution Control Hearings Board, Nat W. Washington, Chairman, Chris Smith, and David Akana (presiding) at a formal hearing in Seattle on December 5, 1979.

Appellant was represented by William P. Ellis, its president; respondent was represented by its attorney, Keith D. McGoffin.

Having heard the testimony, having examined the exhibits, and

1 having considered the contentions of the parties, the Board makes  
2 these

### 3 FINDINGS OF FACT

#### 4 I

5 On June 28, 1979 at about 9:00 a.m. respondent's inspector saw  
6 black smoke coming from the boiler stack of the M/S ASIA BRAVERY at  
7 Pier 3 in the Port of Everett in Everett. He took an observation of  
8 the smoke and recorded Ringelmann readings between 1-1/2 to 5 for a  
9 period of 14 consecutive minutes. After taking his observation, the  
10 inspector boarded the ship and learned that correction to eliminate  
11 the smoke were in progress. The captain was given a copy of Section  
12 9.16 of Regulation I and a notice of violation. From this followed  
13 a \$250 civil penalty and this appeal.

#### 14 II

15 The smoke from the ship was apparently the result of repairs  
16 made to the diesel engine. Appellant and its agents were aware of  
17 the provisions of Section 9.16 of Regulation I which allow for  
18 excessive emissions during startups, shutdowns, unavoidable  
19 failures, upsets or breakdowns but did not comply with conditions to  
20 attempt to benefit from the provision.

#### 21 III

22 Pursuant to RCW 43.21B.260, respondent has filed a certified  
23 copy of its Regulation I and amendments thereto which we notice.

24 Section 9.03 makes it unlawful for any person to cause or allow  
25 the emissions of any air contaminant, here smoke, for more than  
26 three minutes in any one hour, which is darker in shade than that  
27 designated as No. 1 on the Ringelmann Chart.

Section 3.29 provides for the imposition of a civil penalty of up to \$250 per day for each violation of Regulation 1.

IV

Any Conclusion of Law which should be deemed a Finding of Fact is hereby adopted as such.

From these Findings, the Board comes to these

CONCLUSIONS OF LAW

I

Appellant violated Section 9.03 of Regulation 1 as alleged. A civil penalty for the violation was properly imposed and is reasonable in amount.

II

Any Finding of Fact which should be deemed a Conclusion of Law is hereby adopted as such.

From these conclusions the Board enters this

ORDER

The \$250 civil penalty is affirmed.

DATED this 14<sup>th</sup> day of December, 1979.

POLLUTION CONTROL HEARINGS BOARD

Nat W. Washington  
NAT W. WASHINGTON, Chairman

Chris Smith  
CHRIS SMITH, Member

David Akana  
DAVID AKANA, Member

FINAL FINDINGS OF FACT,  
CONCLUSIONS OF LAW AND ORDER 3